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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,582	06/24/2003	John J. Breen	16356.803 (DC-04938)	1625
27683	7590	07/28/2005	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202		TIBBITS, PIA FLORENCE		
		ART UNIT		PAPER NUMBER
		2838		

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/602,582	BREEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Pia F. Tibbits	2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 17-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

This Office action is in answer to the amendment filed 4/28/2005. Claims 1-24 are pending, of which claims 1-16 were withdrawn, and claims 17-23 were amended.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17-24 are rejected under 35 U.S.C. 102(b) as being anticipated by **Cummings et al.**[hereinafter Cummings][5818200] and **Smart Battery System Specifications @**  
<http://www.sbs forum.org/specs/sbsel100.pdf>.

As to claim 17, Cummings discloses in fig.2 an information handling system comprising a processor 12; a system bus 22; a memory 18 [see column 2, line 54] coupled to the processor 12 through the system bus 22; a power supply system [see fig.2] operable to provide power to the processor, the bus and the memory, the power supply system being connectable to an AC adapter 206 for deriving power from an AC power source/AC wall outlet; a controller 213 coupled to the processor 12 and memory 18 through the system bus 22, the controller operable to control the power supply system 200; and wherein the power supply system includes: a pair of smart batteries 202 and 204 each capable of being individually selected to be operable, wherein each of the smart batteries includes: an electronics device/"smart battery" hardware and software, each electronics device being coupled to the controller to jointly control charging and discharging of a rechargeable battery in the associated smart battery, each rechargeable cell being coupled in series to a charge switch 212b, and a discharge switch 212d [see fig.2], and a battery charger 210 [see column 3, line 19] operable to receive charge from the AC adapter

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206 and provide the charge to a selected one of the smart batteries 202 and 204; and a power source selector 212a operable to select either the smart batteries 202 and 204 or the AC power source 206.

Cummings discloses in column 2, lines 63-64 that the PC power supply may employ "smart batteries" (see attached manufacturer's specification). The secondary reference is only used to explain the meaning of a term used in the primary reference, according to MPEP 2131.01, Multiple Reference 35 U.S.C. 102 Rejections, "when the claimed limitation is disclosed identically by the reference, an additional reference may be relied on to show that the primary reference has an "enabled disclosure." *In re Samour*, 571 F.2d 559, 197 USPQ 1 (CCPA 1978) and *In re Donohue*, 766 F.2d 531, 226 USPQ 619 (Fed. Cir. 1985)." "Smart Battery" by definition is a battery equipped with specialized hardware/electronics device that provides present state and calculated and predicted information to its SMBus Host under software control.

As to claims 18-24, see remarks and references for claim 17 above.

***Response to Arguments***

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection. Applicant amended the claim to include "each rechargeable cell being coupled in series to a charge switch, and a discharge switch", which is new issue.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

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date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited in PTO-892 and not mentioned above disclose related apparatus:

**<http://www.mcc-us.com/SBSRescue.pdf>** discloses a "Smart Battery", a **battery pack with added internal electronics** that can measure, compute, and store battery data, and one that can communicate with other SBS devices over the SMBus;

**<http://www.embedded.com/97/feat9611.htm>** discloses that Duracell and Intel have jointly created a standardized battery/power system interface and placed it into the public domain, including a "**smart battery**". This article describes this host-"smart battery" interface specification.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is 571-272-2086. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is 571-272-2084. The Technology Center Fax number is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFT

July 26, 2005

Pia Tibbits

Primary Patent Examiner

